

## LEGISLATIVE BILL 1110

Approved by the Governor April 17, 2002

Introduced by Hartnett, 45; D. Pederson, 42

AN ACT relating to volunteer emergency responders; to amend sections 35-1303 and 35-1309, Revised Statutes Supplement, 2001; to redefine a term; to change a provision relating to service award benefit programs; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 35-1303, Revised Statutes Supplement, 2001, is amended to read:

35-1303. For purposes of the Volunteer Emergency Responders Recruitment and Retention Act:

(1) Active emergency responder means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as both a firefighter and on a rescue squad in the protection of life, health, or property from fire or other emergency, accident, illness, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by section 35-1309.01;

(2) Active rescue squad member means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as part of a rescue squad in the protection of life or health from emergency, accident, illness, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by section 35-1309.01;

(3) Active volunteer firefighter means a person who has been approved by the duly constituted authority in control of a volunteer department as a volunteer member of the department who is performing service as a firefighter in the protection of life or property from fire or other emergency, accident, or calamity in connection with which the services of such volunteer department are required and whose services and activities during a year of service meet the minimum requirements for qualification as an active member of his or her volunteer department as established by section 35-1309.01;

(4) Annual account means a separate account of a city, village, or rural or suburban fire protection district conducting a service award benefit program established for each year of service in which such program is being conducted to which is credited all funds, from whatever source, furnished for the purpose of providing service award benefits to qualifying participants in the service award benefit program during that year of service, with the funds in the account to be held in trust and invested for ultimate payment as service award benefits to those qualifying participants;

(5) City of the first class, city of the second class, village, rural fire protection district, and suburban fire protection district means such political subdivisions as they are defined in statute, and when such political subdivisions are granted authority pursuant to the Volunteer Emergency Responders Recruitment and Retention Act to engage in any conduct authorized by the act, the use of these terms shall be construed to mean and include any combination of two or more of these political subdivisions acting in concert pursuant to an agreement entered into under the terms of the Interlocal Cooperation Act or the Joint Public Agency Act;

(6) Emergency response services means the services provided by a volunteer department in the protection of life, health, or property from fire or other emergency, accident, illness, or calamity;

(7) Nonforfeitable means the unconditional and legally enforceable right by a participant or beneficiary to receive service award benefits pursuant to a service award benefit program at the entitlement age or under the circumstances specified in the Volunteer Emergency Responders Recruitment and Retention Act;

(8) Participant means an active emergency responder, active rescue squad member, or active volunteer firefighter who is currently eligible or who will, upon the completion of the requirements of the act, be eligible to receive a service award benefit;

(9) Service award benefit program means a program established, governed, administered, and maintained pursuant to the act which provides service award benefits for active emergency responders, active rescue squad members, and active volunteer firefighters, as provided for in the act, for each year of active service, as defined by the standard criteria for qualified active service, and which program meets the length of service award plan requirements of section 457(e)(11) of the Internal Revenue Code as defined in section 49-801.01;

(10) Specified years of service means the total number of years of service which must be served by a volunteer member of a volunteer department to qualify that member for a service award benefit as determined by the governing body of the city, village, or rural or suburban fire protection district conducting the program;

(11) Standard criteria for qualified active service means the minimum annual service requirements for the qualification of a volunteer member of a volunteer department as an active emergency responder, active rescue squad member, or active volunteer firefighter so as to enable such person to participate in a service award benefit program as provided in section 35-1309.01;

(12) Unallocated contributions means that portion of an annual account representing the proportionate equal shares of (a) the principal amount of all contributions from whatever source deposited into the annual account for such year of service and (b) all income derived therefrom, attributable to participants listed on the certification list for that year of service who have subsequently ceased to be volunteers or participants and, in consequence, failed to qualify for a service award benefit as provided in section 35-1312 or 35-1313;

(13) Volunteer means a person who meets the requirements necessary to qualify as a bona fide volunteer as defined in section 457(e)(11)(B)(i) of the Internal Revenue Code, as defined in section 49-801.01, and who, on behalf of and at the request or with the permission of a city, village, or rural or suburban fire protection district, engages in activities related to fire protection, fire suppression, or emergency response for the purpose of protecting human life, health, or property; ~~for which activities the person receives no remuneration;~~

(14) Volunteer department means any volunteer fire department or volunteer first-aid, rescue, ambulance, or emergency squad or volunteer fire company, association, or organization serving any city, village, or rural or suburban fire protection district by providing fire protection or emergency response services for the purpose of protecting human life, health, or property; and

(15) Year of service means the twelve-month period established under a service award benefit program in which the services and activities of a volunteer member of a volunteer department are monitored to determine if the volunteer qualifies for certification by the duly constituted authority of the volunteer department as meeting the standard criteria for qualified active service and each succeeding twelve-month period of the program.

Sec. 2. Section 35-1309, Revised Statutes Supplement, 2001, is amended to read:

35-1309. (1) After March 1, 2000, any city of the first class, city of the second class, village, rural fire protection district, or suburban fire protection district which ~~places its primary reliance for emergency response services~~ relies in whole or in part upon a volunteer department for emergency response services may adopt a service award benefit program as provided in the Volunteer Emergency Responders Recruitment and Retention Act.

(2) No city, village, or fire protection district shall be required to adopt a service award benefit program. Nothing in the act shall be construed to mandate the creation of a service award benefit program in any city, village, or fire protection district. The act shall not be construed to prohibit any city, village, or fire protection district from ending or eliminating any service award benefit program after its adoption, except that a city, village, or fire protection district may not end its program or its responsibility under its program with regard to any year of service completed prior to such elimination.

(3) Each service award benefit program shall include provisions governing the procedures to be followed in the tallying, recording, verifying, and auditing of points earned by volunteers and provisions which provide for the collection of such other information regarding participants as may be requested by the State Fire Marshal to facilitate administration of the program.

Sec. 3. Original sections 35-1303 and 35-1309, Revised Statutes Supplement, 2001, are repealed.

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Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.